IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 9TH FEBRUARY 2007 / 20TH MAGHA 1928

CRL.A.No. 46 of 2004 (B)

AGAINST THE JUDGEMENT IN CRLP.15/2004 Dated 07/01/2004
ST.2603/2002 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOZHIKODE

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APPELLANT: COMPLAINANT

P.SULAIMAN, S/O.KADIRI HAJI,
SAMEER MANZIL, POOVATTUPARAMB,
KOZHIKODE.

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS: RESPONDENT/ACCUSED

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1. N.K.RAJESH, S/O. RAGHUNATH,
N.K.HOUSE, GANDHI ROAD,
VELLAYIL, P.O. NADAKKAVU.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.K.K.RABINDRA KUMAR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 09/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

Crl.A. 46/2004 (B)

Dated this the 9th day of February, 2007

JUDGMENT

The complainant in S.T.No.2603/2002 on the file of the Judicial Magistrate of First Class-I, Kozhikode, is the appellant. He preferred a complaint under Section 138 of the Negotiable Instruments Act, in short 'the Act', and the same was dismissed by the Court below, through the impugned order dated 6.8.2003. Hence this appeal, after obtaining special leave.

2. In the impugned order, the Court below had dismissed the complaint, as the steps were not taken by the complainant. The counsel for the appellant submits that the clerk of the advocate had noted the date wrongly and, therefore, steps taken were not brought to the notice of the Court below.

3. Considering the circumstances of the case, I find it necessary to give an opportunity to both sides to agitate the matter before the Court below. Hence, I set

side the impugned order and restore S.T.No.2603/2002 to the file of the Judicial Magistrate of First Class-I, Kozhikode. I direct the learned Magistrate to dispose of the same at the earliest, in any case within three months from the date of the appearance of the parties.

4. The parties shall appear before the Court below on 13.3.2007.

The appeal is allowed as above.

J.M.JAMES
JUDGE

mrcs